IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5985 OF 2006

Office Notes, Office Memoranda of : coram, appearances, Court's Orders: or directions and Registrar Orders:	Court's or Judge's orders

Mr.Mahendra Deshmukh i/b Mr.Milind Deshmukh for the Petitioner.

None for the Respondents.

CORAM : H.L. GOKHALE, J.

DATE : 9TH JANUARY 2007

P.C. :

1. Heard Mr.Deshmukh for the Petitioner. None present for the Respondents.

2. The petition seeks to challenge the order dated 27th April 2006 on Misc. Application No.49 of 2004. The Petitioner is the husband of Respondent No.2 and their relations are strained. The Petitioner has filed a proceeding for restitution of conjugal rights whereas Respondent No.2 has filed a proceeding for divorce. Both are pending in the Trial Court. In the meanwhile, by the impugned order, the Trial Judge has granted the custody of

Respondent No.1 minor daughter Amruta to Respondent No.2 mother. Respondent No.2 mother is working as a teacher in a school and also takes tuition. She has her own income. The daughter is a minor born on 10th December 1999. Respondent No.2 is now stated to be staying in Borivali, Mumbai with her parents. As against that, the Petitioner stays at Akluj in Dist. Solapur. Surely, the only course left to the learned Judge was to give custody of the minor daughter to one of the parents and to give access to the other. That is what the learned Judge has done. He has given the custody of the minor to the mother and the right of access to the Petitioner husband. The Petitioner may meet his daughter from time to time. For the exact days and hours of his visits, he may make an appropriate application to the Trial Court.

3. The apprehension of the Petitioner is that Respondent No.2 may remove the 1st Respondent outside the territory limit of India since some of her relatives are in Dubai. That aspect is also taken care of by the learned

Judge and he has directed that she is not to be removed unless the Petitioner consents. This being the position, there is no reason to interfere with the order passed by the learned Trial Judge. Petition is dismissed.

(H.L. GOKHALE, J.)